

ST 03-0126-GIL 08/12/2003 MANUFACTURER'S PURCHASE CREDIT

From January 1, 1995 through September 30, 2003, accumulated MPC credit may be used to satisfy Use Tax or Service Use Tax liability that is incurred on the purchase of production related tangible personal property that does not qualify for the manufacturing machinery and equipment exemption. The credit cannot be used after September 30, 2003 even for audit liabilities. See 86 Ill. Adm. Code 130.331. (This is a GIL.)

August 12, 2003

Dear Xxxxx:

This letter is in response to your letter dated April 21, 2003. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found on the Department's Internet website at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

I have a question regarding Manufacturer's Purchase Credit on equipment purchases. Our company recently bought a tape machine for roughly \$800. This machine is used on our Packline to wrap our products before they are shipped out for delivery to our customers. Because of the amount of this machine we would normally not capitalize this, but expense it to our expendable equipment account. My question is: can we use this purchase as MPC credit earned? Is this considered machinery and equipment eligible for MPC credit even though we are expensing this? I would normally only calculate MPC equipment and machinery that we are capitalizing. Please send me an answer in order for me to correctly handle these purchases in the future.

DEPARTMENT'S RESPONSE:

Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330, enclosed. The exemption also extends to repair and replacement parts as long as the parts are incorporated into machinery and equipment that is exempt under the regulation.

"Manufacturing" is defined as the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, which changes some existing material or materials into a material with a different use,

form, or name. These changes must result from the process in question and be substantial and significant.

Generally, the use of machinery or equipment to effect a direct and immediate physical change upon the tangible personal property to be sold will be considered to constitute an exempt use under the manufacturing machinery and equipment exemption. Hand tools do not qualify for the exemption. However, pneumatic hand tools or electric powered hand tools used primarily in manufacturing or assembling may qualify for the exemption.

If packaging equipment is used as part of an integrated manufacturing process, it will generally qualify for the manufacturing machinery and equipment exemption. For example, machinery and equipment used to place tangible personal property to be sold into the packaging in which that property is normally sold, where such machinery or equipment is used as a part of an integrated manufacturing process, will qualify for the manufacturing machinery and equipment exemption. See 86 Ill. Adm. Code Section 130.330(d)(3)(E). Whether a purchaser expenses the purchase of machinery or equipment for income tax purposes, rather than capitalizing such purchase, does not impact whether that machinery or equipment qualifies for the manufacturing machinery and equipment exemption.

Please find enclosed a copy of 86 Ill. Adm. Code 130.331 governing the Manufacturer's Purchase Credit (MPC) (this version is the Department's emergency rules that were adopted because of the repeal of the MPC by Public Act 93-0024). For purchases on and after January 1, 1995 through June 30, 2003, the State of Illinois provided a manufacturer's purchase credit in addition to the exemption for manufacturing machinery and equipment. Purchasers of manufacturing machinery and equipment that qualified for the manufacturing machinery and equipment exemption earned a credit in an amount equal to a fixed percentage of the tax which would have been incurred under the Use Tax or Service Use Tax. See 35 ILCS 105/3-85 and 35 ILCS 110/3-70. From January 1, 1995 through September 30, 2003, accumulated MPC credit may be used to satisfy Use Tax or Service Use Tax liability that is incurred on the purchase of production related tangible personal property that does not qualify for the manufacturing machinery and equipment exemption. See Section 130.331(b). The credit cannot be used after September 30, 2003 even for audit liabilities. See Section 130.331(b)(10).

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b) described above.

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk
Enc.